OLR Bill Analysis

sHB 6644

AN ACT CONCERNING VARIOUS REVISIONS TO THE PUBLIC HEALTH STATUTES.

SUMMARY:

This bill makes numerous substantive and minor changes to Department of Public Health (DPH)-related statutes and programs. For example, the bill allows health professional regulatory boards and, for professions without such boards, DPH, to take disciplinary action against physicians, dentists, psychologists, and other specified health professionals for failing to conform to accepted professional standards, regardless of whether such conduct occurs during professional activities.

The bill requires licensed health care institutions to submit to DPH corrective action plans after the department finds the institution to be noncompliant with state laws or regulations. It limits required background checks for long-term care facility volunteers with direct patient access to only those volunteers reasonably expected to regularly perform duties substantially similar to those of employees with direct patient access. It eliminates the Connecticut Homeopathic Medical Examining Board, transferring responsibility for disciplining homeopathic physicians from the board to DPH.

The act also makes changes affecting the Connecticut Tumor Registry, the Breast and Cervical Cancer Early Detection and Treatment Referral Program, the Biomedical Research Trust Fund, hospice facilities, family day care homes, nursing home IV therapy programs, the Health Information Technology Exchange of Connecticut, master social workers, physician assistants, continuing education for optometrists and dental hygienists, certified water treatment plan professionals, and statutory definitions related to addiction services.

EFFECTIVE DATE: October 1, 2013, except that the provision on the (1) Connecticut Tumor Registry takes effect upon passage and (2) Breast and Cervical Cancer Early Detection and Treatment Referral Program takes effect January 1, 2014.

§ 1 — BIOMEDICAL RESEARCH TRUST FUND

By law, DPH awards grants from the Biomedical Research Trust fund for biomedical research in heart disease, cancer, other tobacco-related diseases, Alzheimer's disease, and diabetes. The bill codifies existing practice by making 2% of the fund's total amount available to DPH for related administrative expenses.

Existing law limits the total amount of grants awarded during a fiscal year to 50% of the fund's total amount on the date the grants are approved. The bill specifies that each fiscal year the DPH commissioner must use all monies deposited in the fund to award the grants, provided the grants do not exceed this amount.

Current law allows DPH to award the grants to (1) nonprofit, tax-exempt colleges or universities or (2) hospitals that conduct biomedical research. The bill limits grant eligibility to such entities whose principal place of business is located in Connecticut.

§ 2 — BREAST AND CERVICAL CANCER EARLY DETECTION AND TREATMENT REFERRAL PROGRAM

The bill increases the income limit, from 200% to 250% of the federal poverty level, for DPH's Breast and Cervical Cancer Early Detection and Treatment Referral Program. It retains the existing requirement that participants also (1) be 21 to 64 years old and (2) lack health insurance coverage for breast cancer screening mammography or cervical cancer screening services.

The bill removes a requirement that the program's contracted providers report to DPH the names of the insurer of each uninsured woman being tested to facilitate recovery of clinical service expenses to the department.

By law, the program provides, within existing appropriations,

participants with (1) clinical breast exams, (2) screening mammograms and pap tests, and (3) a pap test every six months for women who have tested HIV positive.

§ 3 — BACKGROUND CHECKS FOR LONG-TERM CARE FACILITY VOLUNTEERS

Under current law, a long-term care facility must require any person offered a volunteer position involving direct patient access to submit to a background check, which includes (1) state and national criminal history record checks, (2) a review of DPH's nurse's aide registry, and (3) a review of any other registry that DPH specifies.

The bill conforms to federal law by limiting the background check requirement to only those volunteers the facility reasonably expects to regularly perform duties substantially similar to those of an employee with direct patient access.

The law, unchanged by the bill, does not require the background check if the person provides the facility evidence that a background check carried out within three years of applying for the volunteer position revealed no disqualifying offense.

§§ 4 & 5 — INPATIENT HOSPICE FACILITIES

The bill adds to the statutory definition of health care "institution" a "short-term hospital special hospice" and "hospice inpatient facility." The terms are not defined in statute but appear in the department's hospice regulations (see BACKGROUND). Thus, the bill extends to these entities statutory requirements for health care institutions regarding, among other things, workplace safety committees, access to patient records, disclosure of HIV-related information, and smoking prohibitions.

The bill also establishes biennial licensing and inspection fees for these entities as follows:

1. for short-term hospitals special hospice, $940 per site and $7.50 per bed (DPH currently charges these facilities the same renewal fees as hospitals, which equal these amounts) and

2. for hospice inpatient facilities, $440 per site and $5 per bed.

§ 6 — FAMILY DAY CARE HOME STAFF

The bill makes a conforming change to the family day care home statutes, reducing the application fee, from $20 to $15, for assistant or substitute staff members. The law requires these individuals to apply for and obtain DPH approval before working in a family day care home.

§ 7 — CORRECTIVE ACTION PLANS FOR LICENSED HEALTH CARE INSTITUTIONS

The bill removes the one-year time limit within which DPH-licensed health care institutions must comply with any regulations the department adopts. It retains the current requirement that they comply within a reasonable time (the bill does not define this term).

The bill allows DPH to inspect a licensed health care institution to determine whether it is complying with state statutes and regulations (the law already allows this). The department must notify an institution in writing if it finds it to be noncompliant. Within 10 days of receiving the notice, the bill requires the institution to submit to DPH a written corrective action plan that includes the:

1. corrective measures or systemic changes the institution intends to implement to prevent a recurrence of each identified non-compliance issue;

2. effective date of each corrective measure or systemic change;

3. institution's plan to monitor its quality assessment and performance improvement functions to ensure that the corrective measure or systemic change is sustained; and

4. title of the institution's staff member responsible for ensuring compliance with the plan.

Under the bill, the corrective action plan is deemed the institution's representation of compliance with the statutes and regulations identified in the department's noncompliance notice. An institution

failing to submit a corrective action plan that meets the above requirements may be subject to disciplinary action.

§§ 8-25 — DISCIPLINARY ACTION AGAINST CERTAIN HEALTH PROFESSIONALS

By law, the state's health professional regulatory boards and, for professions without such a board, DPH may take disciplinary action against a licensee. Conduct or conditions warranting discipline include, among other things, a felony conviction; fraud or deceit in practice; negligent, incompetent, or wrongful conduct in professional activities; emotional, mental, physical, or substance use disorders; or violation of state laws or regulations.

The bill allows DPH and such boards to also take disciplinary action against specified health care professionals for failing to conform to accepted professional standards, regardless of whether such conduct occurs during professional activities. It applies to physicians and surgeons, chiropractors, natureopathic physicians, podiatrists, physical and occupational therapists, funeral service businesses, funeral directors, embalmers, dentists, dental hygienists, optometrists, opticians, psychologists, marital and family therapists, veterinarians, electrologists, barbers, hairdressers, and cosmetologists.

The law already allows such grounds for disciplinary action for professional counselors, nurses, acupuncturists, paramedics, massage therapists, dietician-nutritionists, perfusionists, respiratory care practitioners, athletic trainers, midwives, radiographers, and radiology assistants, among others.

By law, disciplinary actions available to DPH and regulatory boards include license revocation or suspension; censure; a letter of reprimand; probation; or a civil penalty. The department can also order a licensee to undergo a reasonable physical or mental examination in an investigation about his or her physical or mental capacity to practice safely.

§ 26 — NURSING HOME IV THERAPY PROGRAMS

The bill allows a licensed physician assistant employed or

contracted by a nursing home that operates an IV therapy program to administer a peripherally-inserted central catheter (PICC) as part of the home's IV therapy program. The law already allows an IV therapy nurse to do this. A PICC is a tube that is inserted into a peripheral vein, typically in the upper arm, and advanced until the catheter tip ends in a large vein in the chest near the heart to obtain intravenous access.

DPH must adopt regulations to implement this change.

§ 27 — HEALTH INFORMATION TECHNOLOGY EXCHANGE OF CONNECTICUT (HITE-CT)

The bill requires the governor to select the chairperson of HITE-CT's 20-member board of directors, rather than having the DPH commissioner or her designee serve as the chair.

HITE-CT is a quasi-public agency designated as the state's lead agency for health information exchange. It is responsible for, among other things, (1) developing a statewide health information exchange to share health information electronically among health care facilities, health care professionals, public and private payors, and patients; (2) providing grants to advance health information technology and exchange in the state; and (3) implementing and periodically revising the state's health information technology plan.

§ 28 — MASTER SOCIAL WORK LICENSURE WITHOUT EXAMINATION

The bill extends, from October 1, 2012 to October 1, 2013, the date by which the DPH commissioner may issue a master social work license without examination, to an applicant who satisfactorily demonstrates that on or before October 1, 2010 he or she (1) held a master's degree from a social work program accredited by the Council on Social Work Education or (2) if educated outside of the U.S. or its territories, completed a program the council deemed equivalent.

PA 10-38 established, within available appropriations, a new DPH licensure program for master level social workers, which the department has not yet implemented.

§ 29 — ACTIVE DUTY PHYSICIAN ASSISTANTS

The bill allows a physician assistant who is (1) licensed in another state and (2) an active member of the Connecticut Army or Air National Guard to provide patient services under the supervision, control, responsibility, and direction of a Connecticut-licensed physician while in the state.

§§ 30 & 31 — CONTINUING EDUCATION FOR OPTOMETRISTS

The bill allows, rather than requires, DPH to adopt regulations regarding continuing education (CE) requirements for optometrists and establishes these requirements in statute. Current law requires DPH to adopt regulations requiring at least 20 hours of CE during each registration period (i.e., the 12-month period for which a license is renewed).

CE Requirements

The bill generally requires a licensee actively engaged in the practice of optometry to complete at least 20 hours of CE each registration period. It defines "actively engaged in the practice of optometry" as treating one or more patients during a registration period.

The bill requires CE subject matter to reflect the licensee's professional needs in order to meet the public's health care needs. It must include at least six hours in (1) pathology, diabetes detection, or ocular treatment and (2) treatment related to the use of ocular agents-T (see BACKGROUND). It cannot include more than six hours in practice management.

Coursework must be provided through direct, live instruction physically attended by the licensee either (1) individually, (2) as part of a group of participants, or (3) through formal home study or a distance learning program. But, a licensee can only complete up to six hours of CE through the latter.

Qualifying CE Activities

Under the bill, qualifying CE activities include courses offered or approved by:

1. the Association of Regulatory Boards of Optometry's Council on Optometric Practitioner Education (COPE),

2. the American Optometric Association (AOA) or affiliated state or local optometry associations and societies,

3. a hospital or other health care institution,

4. an optometry school or college or other higher education institution accredited or recognized by COPE or AOA,

5. a state or local health department, or

6. a national, state, or local medical association.

License Renewal

The bill requires each licensee applying for renewal to sign a statement attesting, on a form DPH prescribes, that he or she completed the CE requirements.

Each licensee must get an attendance record or certificate of completion from the continuing education provider for all hours successfully completed. He or she must retain this documentation for at least three years following the date the CE was completed or the license renewed. The licensee must submit the documentation to DPH within 45 days of the department's request.

A licensee failing to comply with these requirements may be subject to DPH disciplinary action, including license revocation or suspension, censure, letter of reprimand, placement on probation, or a civil penalty.

CE Exemptions and Waivers

A licensee applying for his or her first renewal is exempt from the CE requirements. A licensee not actively engaged in the practice of optometry is also exempt, provided he or she submits a notarized exemption application before the end of the registration period on a form DPH prescribes. In this case, the licensee cannot resume practicing optometry until completing the CE requirements.

DPH may also grant a waiver from the requirements or an extension of time for a licensee who has a medical disability or illness. The licensee must apply for a waiver or time extension to DPH and submit (1) a licensed physician's certification of the disability or illness and (2) any documentation the department requires. The waiver or extension cannot exceed one registration period. DPH may grant additional waivers or extensions if the initial reason for the waiver or extension continues beyond the waiver or extension period and the licensee applies.

Licensure Reinstatement

A licensee who applies for licensure reinstatement after his or her license was voided must submit evidence that he or she completed 20 contact hours (the bill does not define this term) of CE within one year immediately preceding the application. It applies to an optometrist whose license was voided for failing to pay the renewal fee and renew the license within 90 days after the renewal date.

§§ 32 & 33 — DENTAL HYGIENISTS CONTINUING EDUCATION AND LICENSE RENEWAL

The bill removes the requirement that DPH adopt regulations on CE requirements for dental hygienists and instead establishes the requirements in statute.

CE Requirements

The bill generally requires each licensee applying for renewal to complete at least 16 hours of CE within the preceding two years (the same requirement as under current DPH regulations). The CE subject matter must reflect the licensee's professional needs in order to meet the public's health care needs. CE activities must provide significant theoretical or practical content directly related to clinical or scientific aspects of dental hygiene.

A licensee may substitute eight hours of volunteer dental practice at a public health facility for one hour of CE, up to a maximum of five hours in one two-year period. Up to four hours of CE may be earned through an online or distance learning program.

Qualifying CE Activities

Under the bill, qualifying CE activities include courses, including those online, that are offered or approved by:

1. dental schools and other higher education institutions accredited or recognized by the Council on Dental Accreditation;

2. a regional accrediting organization;

3. the American Dental Association or an affiliated state, district, or local dental association or society;

4. the National Dental Association;

5. the American Dental Hygienists Association or an affiliated state, district, or local dental hygiene association or society;

6. the Academy of General Dentistry or the Academy of Dental Hygiene;

7. the American Red Cross or American Heart Association, when sponsoring programs in cardiopulmonary resuscitation or cardiac life support;

8. the Veterans Administration and Armed Forces, when conducting programs at U.S. government facilities;

9. a hospital or other health care institution;

10. agencies or businesses whose programs are accredited or recognized by the Council on Dental Accreditation;

11. local state, or national medical associations; or

12. a state or local health department.

Under the bill, activities that do not qualify toward meeting CE requirements include (1) professional organizational business meetings, (2) speeches delivered at luncheons or banquets, and (3)

reading books, articles, or professional journals.

License Renewal; CE Exemptions and Waivers

The bill's CE documentation requirements, exemptions, and waivers for dental hygienists are the same as those for optometrists (see Section 31 above).

Licensure Reinstatement

A licensee who applies for licensure reinstatement after his or her license was voided must submit evidence that he or she successfully completed: (1) for licenses voided for two years or less, 24 contact hours of CE within the two years immediately preceding the application or (2) for licenses voided for more than two years, the National Board of Dental Hygiene Examination or the Northeast Regional Board of Dental Examiners' Examination in Dental Hygiene during the year immediately preceding the application. It applies to a dental hygienist whose license was voided for failing to pay the renewal fee and renew the license within 90 days after the renewal date.

§§ 34-39 & 42 — HOMEOPATHIC PHYSICIANS

Connecticut Homeopathic Medical Examining Board

The bill eliminates the five-member Connecticut Homeopathic Medical Examining Board, thus transferring responsibility for disciplinary action against homeopathic physicians from the board to DPH. It makes technical and conforming changes related to the board's elimination.

Under current law, the board is responsible for (1) hearing and deciding matters concerning homeopathic physician licensure suspension or revocation, (2) adjudicating complaints against homeopathic physicians, and (3) imposing sanctions, when appropriate.

Homeopathic Physician Licensure Requirements

By law, a homeopathic physician must be licensed as a physician and complete at least 120 hours of post-graduate medical training in

homeopathy at an institution or under the direct supervision of a licensed homeopathic physician.

The bill requires training completed at an institution to be approved only by the American Institute of Homeopathy (AIH), instead of by either AIH or the Connecticut Homeopathic Medical Examining Board. It requires training completed under a physician's supervision to be approved by DPH, instead of the board.

§ 35 — CERTIFIED WATER TREATMENT PLANT PROFESSIONALS

The bill specifies that no regulatory board may exist for the following DPH-certified professionals thus, specifying that DPH is responsible for regulating and disciplining them: (1) water treatment plant operators; (2) distribution and small water system operators; (3) backflow prevention device testers; (4) cross connection survey inspectors, including limited operators; (5) conditional operators; and (6) operators in training.

§ 40 — ADDICTION SERVICES STATUTORY DEFINITIONS

The bill makes a technical change to the definitions of "alcohol-dependent person" and "drug-dependent person" in the Department of Mental Health and Addiction Services-related statutes to reflect updated terminology in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-V), scheduled to take effect in May 2013.

§ 41 — CONNECTICUT TUMOR REGISTRY

The bill requires that reports to the Connecticut Tumor Registry include, along with other information required by existing law, available follow-up information on (1) pathology, and other operative reports and (2) hematology, medical oncology, and radiation therapy consults.

By law, the Connecticut Tumor Registry includes reports of all tumors and conditions that are diagnosed or treated in the state for which DPH requires reports. Hospitals, various health care providers,

and clinical laboratories must provide such reports to DPH for inclusion in the registry. The bill requires the reports to be submitted to DPH within six months after the diagnosis or first treatment of a reportable tumor, instead of by each July 1st as under current law.

BACKGROUND

Related Bill

SB 63 (File 103), reported favorably by the Public Health Committee, allows DPH to award Biomedical Research Trust Fund grants for biomedical research related to strokes.

DPH Hospice Regulations (§§ 4 & 5)

DPH regulates hospices that are considered free-standing or established as a distinct unit within a health care facility (e.g., inpatient hospice facilities). DPH regulations define "hospice" under the broader category of "short-term hospital special hospice." Inpatient hospice facilities must meet a variety of requirements concerning their physical plants, administration, staffing, records, and infection control.

In 2012, DPH amended its hospice regulations, creating a second licensure category called "inpatient hospice facilities." The regulations keep the existing "short-term hospital special hospice" licensure category so that facilities that want to continue to provide hospice services at a hospital level of care may do so. The new "inpatient hospice facility" licensure category allows entities to create new facilities under regulations based on Medicare's minimum regulatory requirements for inpatient hospital facilities (42 C. F. R. § 418.110). These requirements are less stringent than DPH's short-term hospital special hospice regulations. (Conn. Agencies Reg., §§ 19a-495-5a to 19a-495-6m).

Ocular Agents-T (§§ 30 & 31)

"Ocular agents-T" are (1) topically administered ophthalmic agents and orally administered antibiotics, antihistamines, and antiviral agents used for treating or alleviating the effects of eye disease or abnormal conditions of the eye or eyelid, excluding the lacrimal drainage system and glands (tears) and structures behind the iris, but

including the treatment of iritis, and (2) orally administered analgesic agents for alleviating pain caused by these diseases or conditions.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute
Yea 27 Nay 0 (04/02/2013)